



U.S. Department of Justice

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**U.S. SETTLES VOTING RIGHTS LAWSUIT
AGAINST WESTCHESTER COUNTY**

DAVID N. KELLEY, the United States Attorney for the Southern District of New York, announced today that the United States Government filed in Manhattan federal court, and simultaneously settled through a consent decree, a civil lawsuit against Westchester County under the Voting Rights Act of 1965 and the Help America Vote Act of 2002.

The Government alleged in its Complaint that Westchester County has failed to comply with Section 203 of the Voting Rights Act of 1965 ("Section 203"). Section 203 requires that, whenever any covered political subdivision provides any information relating to the electoral process, including voting notices, forms, instructions, assistance, or ballots, it must provide that information in the language of the applicable minority group as well as in English.

In 1992, Westchester County became a covered "political subdivision" subject to Section 203 with respect to the Spanish language and, since then, has been required to provide limited-

English proficient Hispanic citizens in the County with Spanish-language election information and assistance. Westchester County's coverage is based on a determination by the Director of the Census that there are more than 10,000 citizens of voting age in the County who are members of a single language minority group (Spanish heritage or Hispanic) who do not speak or understand English well enough to participate effectively in the English-language election process, and the illiteracy rate of these persons as a group is higher than the national illiteracy rate.

The Government alleged in its Complaint that Westchester County violated Section 203 by failing to translate written election materials and information into Spanish and by failing to provide for an adequate number of bilingual poll workers trained to assist Spanish-speaking voters at the polls on election day.

The Complaint further alleged that Westchester County has failed to comply with Section 302 of the Help America Vote Act of 2002 ("Section 302 of HAVA"). Section 302 of HAVA requires, among other things, that all jurisdictions (1) permit individuals who declare that they are registered voters in the jurisdiction in which they desire to vote, and that they are eligible to vote in an election for Federal office, but whose names do not appear on the official list of eligible voters in a particular polling place or whose eligibility is questioned by an election official, to cast a provisional ballot, and (2) post in each polling place certain voting information, including

instructions on how to cast a vote and a provisional ballot, regarding the date of the election and hours during which polling places will be open, and general information on voting rights under applicable federal and state law. The Government alleged in its Complaint that, during the November 2, 2004 general election, Westchester County violated Section 302 by failing to post in each and every polling place throughout the County all the signs and information specifically required by Section 302, and by refusing to permit some voters to cast provisional ballots.

The consent decree, which still must be approved by the court, requires that Westchester County implement a comprehensive remedial plan aimed at ensuring that it complies fully with the Voting Rights Act and HAVA in all future countywide elections for state and federal offices. Among other things, the consent decree requires the County to do the following:

- provide all information about the electoral process that the County provides in English to be provided in Spanish;
- hire and train sufficient numbers of bilingual poll workers to assist the County's Spanish-speaking citizens at the polls on election day;
- post in both English and Spanish at each polling place all information required by Section 302 of HAVA;

- ensure that citizens whose names do not appear on the official list of eligible voters in a particular polling place, but who otherwise desire to vote and declare that they are eligible to vote in an election for federal office, will be permitted to cast provisional ballots; and
- establish a free access system in both English and Spanish for informing voters about whether their provisional ballots have been counted, and if rejected, the reason for the rejection.

The consent decree also permits the Justice Department to monitor future elections in the County to ensure compliance with the consent decree. The consent decree will remain in effect through August 7, 2007, and may be extended through December 31, 2008, upon motion by the Government for good cause shown.

Mr. KELLEY stated: "This lawsuit demonstrates the federal Government's commitment to ensure that all voters, including those with limited-English proficiency, are provided with legitimate and meaningful access to our electoral process."

Assistant United States Attorney RAMON E. REYES, JR. is in charge of the case.

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